

REMARKS

Applicant has studied the Office Action dated December 6, 2005. Claims 1, 2, 4-9 and 11-15 are pending. Claims 4, 6, 7, 9 and 13 have been amended. Claims 3 and 10 have been canceled without prejudice. Claims 1 and 9 are independent claims. It is submitted that the application, as amended is in condition for allowance. Reconsideration and reexamination are respectfully requested.

Claim for Foreign Priority under 35 U.S.C. § 119

The Examiner acknowledged the Applicant's claim for foreign priority under 35 U.S.C. § 119 and indicated that a certified copy of the priority document had been received.

Amendments to the Claims

Claims 4, 6, 7, and 13 have been amended to correct dependency in view of canceled claims. It is respectfully submitted that the amendments have support in the application as originally filed and are not related to patentability.

§ 112 Rejections

Claim 8 was rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the applicant regards as the invention. Specifically, the Examiner asserted that the phrase "the piezo device" in the second line lacks sufficient antecedent basis. The Examiner further indicated that correction may make claim 8 allowable.

With this paper, claim 1 has been amended to incorporate the limitations of claim 3, which has been canceled without prejudice and, therefore, now recites "a piezo device." It is respectfully submitted that antecedent basis for the phrase "the piezo device" in claim 8 is now provided by claim 1, from which claim 8 depends and, therefore, the grounds for the rejection have been overcome. It is respectfully asserted that claim 8 is now in condition for allowance and it is respectfully requested that the Examiner withdraw the rejection.

§ 103 Rejections

Claims 1 and 2 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Weinberger et al. (U.S. Pat. No. 5,461,686). This rejection is respectfully traversed.

With this paper, independent claim 1 has been amended with allowable subject matter indicated by the Examiner in claim 3, which has been canceled without prejudice. Therefore, it is respectfully asserted that claim 1 is now in condition for allowance, as is claim 2, which depends from claim 1.

Allowable Subject Matter

Applicant graciously acknowledges the Examiner's indication of allowable subject matter in claims 3-7. With this paper, independent claim 1 has been amended to incorporate the limitations of claim 3, which has been canceled without prejudice. It is respectfully asserted that claims 4-7, which depend from claim 1, are now in condition for allowance.

Restriction Requirement

The Examiner asserted, at page 2 of the Office action, that a restriction to either the invention of claims 1-8 or the invention of claims [9]-15 is required and that a provisional election was made with traverse on November 15, 2005 to prosecute claims 1-8. Applicant acknowledges the provisional restriction with traverse and respectfully submits that the restriction requirement is no longer required in view of the amendments to the claims.

It is respectfully noted that the Examiner, at page 2 of the Office action, asserted that the restriction requirement is required because "[i]nvention I can be practiced using mechanical means for controlling light phase rather than using a piezo device as claimed in invention II." It is respectfully noted that independent claim 1 has been amended with this paper to recite "the light phase controller comprises a piezo device." It is further respectfully noted that independent claim 9 has been amended with this paper to recite limitations similar to the allowable subject matter indicated by the Examiner in claim 3 and claim 10 has been canceled without prejudice.

It is respectfully submitted that both the invention of claims 1, 2 and 4-7 and the invention of claims 9 and 11-15 recite a "piezo device" and, therefore, are no longer distinct. Therefore, it is respectfully requested that the restriction requirement be withdrawn and claims 9 and 11-15 be reinstated and considered for allowance.

CONCLUSION

In view of the above remarks, Applicant submits that claims 1, 2, 4-9 and 11-15 of the present application are in condition for allowance. Reexamination and reconsideration of the application, as originally filed, are requested.

No amendment made was related to the statutory requirements of patentability unless expressly stated herein; and no amendment made was for the purpose of narrowing the scope of any claim, unless Applicant has argued herein that such amendment was made to distinguish over a particular reference or combination of references.

If for any reason the Examiner finds the application other than in condition for allowance, the Examiner is requested to call the undersigned attorney at the Los Angeles, California telephone number (213) 623-2221 to discuss the steps necessary for placing the application in condition for allowance.

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